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100th Congress 2d Session | HOUSE OF REPRESENTATIVES | Rept. 100-816 Part 8

THE UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT OF 1988

August 8, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. de la Garza, from the Committee on Agriculture, submitted the following

REPORT

[To accompany H.R. 5090, which on July 26, 1988, was referred jointly to the Committees on Ways and Means, Agriculture, Banking, Finance and Urban Affairs, Energy and Commerce, Foreign Affairs, Government Operations, Interior and Insular Affairs, and the Judiciary]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Agriculture, to whom was referred the bill (H.R. 5090) to implement the United States-Canada Free-Trade Agreement, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

Brief Explanation

H.R. 5090, the United States-Canada Free-Trade Agreement Implementation Act of 1988, is designed to implement the United States-Canada Free-Trade Agreement (hereinafter "FTA" or "Agreement") that was entered into by the U.S. and Canadian Governments on January 2, 1988. The FTA commits both the United States and Canada to enact whatever legislative changes are necessary to implement the Agreement. Pursuant to this requirement, the provisions of the implementing legislation that are within the exclusive or joint jurisdiction of the Committee on Agriculture will—

(1) authorize the President to exempt both Canadian grains and sugar-containing products with ten percent or less sugar by dry weight from section 22 import restrictions;

(2) authorize the Secretary of Agriculture to issue regulations that would allow the entry into the United States of cer-

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tain veterinary biologics without a permit issued by the Secretary;

(3) require the removal of the origin-staining requirements for imported Canadian alfalfa and clover seeds;

(4) authorize the Secretary of Agriculture to permit imports of Canadian plants based on Canadian inspections when such inspections are equivalent to U.S. inspections;

(5) authorize the Secretary of Agriculture to establish regulations that would allow the importation of ruminants and swine and fresh, chilled, and frozen meat from areas of Canada free of foot and mouth disease and rinderpest, even if other areas in Canada may have such diseases; and

(6) approve the FTA, certain letters exchanged between the United States and Canada, interpreting the Agreement, and the statement of administrative action proposed to implement the Agreement, as submitted to Congress by the President on July 25, 1988.

There are a number of other provisions of H.R. 5090 that will directly affect the trade in agricultural products between the United States and Canada. Of these, there are provisions that will—

(1) authorize the President to impose, under certain circumstances, a temporary duty on the importation of specified fresh fruits or vegetables from Canada;

(2) exclude Canada from the calculation of the quantity of meat articles that may be imported without triggering meat import quotas, adjust the minimum quota amount to reflect the removal of Canada from the calculation, and authorize the President to impose import restrictions on Canadian meat articles under limited circumstances;

(3) encourage the President to facilitate the preparation and implementation of common performance standards for the use of softwood plywood in construction applications in the United States and Canada, and require the President to report to Congress on the incorporation of common plywood performance standards into building codes in the United States and Canada;

(4) direct the President to enter into immediate consultations with the Government of Canada to obtain the exclusion from the transport rates established under Canada's Western Grain Transportation Act of agricultural goods that originate in Canada and are shipped via east coast ports for consumption in the United States;

(5) authorize the President to enter into negotiations with Canada for reciprocal quantitative limits on the trade of potatoes between the United States and Canada; and

(6) direct the President to take appropriate action to enforce U.S. rights under the General Agreement on Tariffs and Trade in the event that Canada applies export controls on unprocessed fish or landing requirements for fish caught in Canadian waters.

Purpose and Need

The United States-Canada Free-Trade Agreement Implementation Act is designed to approve the Free-Trade Agreement (herein-

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after "FTA" or "Agreement") and to enact those statutory changes necessary to implement the FTA. The Agreement establishes a free trade area consistent with the General Agreement on Tariffs and Trade (GATT).

The objectives of the Agreement are to:

(1) eliminate barriers to trade in goods and services between the two countries.

(2) facilitate conditions of fair competition;

(3) significantly liberalize conditions for investment;

(4) establish effective procedures to administer the Agreement and resolve disputes; and

(5) lay the foundation for further bilateral and multilateral cooperation.

Overall, the FTA eliminates all tariffs between the United States and Canada, reduces many non-tariff barriers, and provides ground rules covering trade in services, and supports efforts at multilateral trade liberalization. The United States and Canada agreed to take all necessary steps to ensure compliance with the Agreement by their respective State, provincial, and local governments.

H.R. 5090 is designed to implement the Agreement by enacting the changes in Federal law that are necessary for the U.S. to meet its commitments under the Agreement.

Agricultural Provisions of the Free-Trade Agreement

Canada is the third largest export market for U.S. agricultural products. Canada imports approximately $2,000,000,000 worth of U.S. agricultural products annually. According to the U.S. Department of Agriculture's Economic Research Service, the Agreement will affect about one-half of our agricultural exports to Canada, and about one-quarter of U.S. agricultural imports from Canada. U.S. export products that are expected to benefit include fruits and vegetables, poultry and eggs, some grains, wine, and high-value and processed products. Canadian export products that should benefit from the Agreement include beef, potatoes, onions, and carrots.

TARIFFS ELIMINATED

All tariffs on agricultural goods traded between the two countires will be eliminated within ten years after the Agreement's effective date. This should allow for increased agricultural exports to Canada, especially with regard to exports of fresh fruits and vegetables.

FRUIT AND VEGETABLE SPECIAL DUTY PROVISIONS

The Agreement provides that either country for the next 20 years may, under certain conditions, apply a temporary duty on designated fresh fruits and vegetables. The application of such duty cannot cause the total duty on these products to exceed the most-favored-nation duty on these goods.

EXPORT SUBSIDY PROHIBITION

The Agreement prohibits either country from using export subsidies on agricultural goods shipped to the other country. The Agreement also requires both Canada and the United States to "take

into account" the interests of the other signatory in the use of any subsidy on any agricultural good exported to third countries. On a related matter, the Agreement specifically calls for the elimination of the transportation subsidies provided under Canada's Western Grain Transportation Act for agricultural goods shipped to the United States via Canadian west coast ports.

The Agreement also prohibits either government or government-established or maintained public entities from selling agricultural goods to the other country below cost. These provisions will help to ensure that U.S. agricultural producers will not be forced to compete against unfairly traded Canadian products.

GRAINS AND SUGAR-CONTAINING PRODUCTS

Pursuant to the Agreement, Canada will eliminate its current license requirements for the importation of U.S. wheat, barley, oats, and their products. The Agreement provides that the Canadian license requirements will be removed when the level of government support for wheat, oats, or barley in the United States becomes equal to or less than the level of government support for that grain in Canada. It is expected that the licensing requirement for oats will be removed during the first year of the Agreement, while the licensing requirement for the importation of wheat and barley will be removed at some future date.

The Agreement also provides for the President of the United States to exempt from U.S. import restrictions certain Canadian grains. However, the Agreement allows both Canada and the United States to retain the right to impose import restrictions or import fees on imports of grain or grain products if such imports increase significantly as a result of a substantial change in either country's support programs for that grain.

Under the Agreement the United States pledged not to impose any import quotas or tariffs on products containing ten percent or less sugar by dry weight.

MARKET ACCESS FOR MEAT

The Agreement generally prohibits either country from imposing quantitative import restrictions on the other's meat products, with an exception to prevent the frustration of actions taken to limit meat imports from third countries.

MARKET ACCESS FOR POULTRY AND EGGS

The Agreement will require Canada, if it chooses to maintain import quotas on eggs and poultry products, to increase the minimum level of those quotas to reflect its actual average import levels of the past five years, thereby increasing the minimum access levels for these products in the Canadian market. In 1986, the U.S. exported $37.9 million in eggs and egg products to Canada, while importing $8.9 million in similar Canadian goods.

TECHNICAL REGULATIONS AND STANDARDS

The Agreement includes a number of general principles and commitments regarding technical regulations and standards governing trade between the United States and Canada in agricultural, food,

beverage and certain related goods. To further its implementation, the Agreement provides for the establishment of eight working groups composed of representatives of both countries on the following subjects of agricultural trade: animal health; plant health; seeds and fertilizers; meat and poultry inspection; dairy, fruit, vegetable and egg inspection; veterinary drugs and feeds; food, beverage and color additives and unavoidable contaminants; pesticides; and packaging and labelling of agricultural, food, beverage and certain related goods for human consumption.

WINE AND DISTILLED SPIRITS

The Agreement eliminates the most significant discriminatory Canadian practices regarding exports of U.S. wines—pricing and listing measures—and prohibits discrimination against U.S. wines and spirits for all new regulations. Discriminatory pricing practices for spirits will be terminated upon entry into force of the Agreement, and by 1995 for wine. It is estimated that improved access for U.S. wines in the Canadian market could result in increases of U.S. wine exports to Canada totalling $20 million annually.

BENEFITS OF THE AGREEMENT FOR AMERICAN AGRICULTURE

The overall effect of the FTA on the U.S. agricultural sector is expected to be a positive one. The Agreement will expand the opportunities for producers of U.S. agricultural goods to export their products to Canada by eliminating import tariffs and prohibiting export subsidies on agricultural trade between the two countries. Since most Canadian tariffs on imported agricultural goods, especially fresh fruits and vegetables, are higher than those currently imposed by the United States, removal of tariffs by both nations should help to increase the exports of U.S. agricultural goods to Canada.

The Need for Implementing Legislation

Section 2(d) of the Trade Act of 1974 requires the President, once he enters into a trade agreement to submit to Congress the agreement, a draft bill implementing the agreement, and a statement of any administrative action proposed to implement the agreement. Such a trade agreement will not enter into force unless the implementing bill is enacted.

On July 25, 1988 the President submitted to the Congress the final legal text of the United States-Canada Free-Trade Agreement, the proposed United States-Canada Free-Trade Agreement Implementation Act of 1988, and a statement of administrative action proposed to implement the Act. Pursuant to the President's submission, the Congress must approve the implementing legislation, H.R. 5090, or the Agreement will fail to become effective.

Accordingly, if the U.S. agricultural sector is going to realize the benefits of the Agreement, H.R. 5090 must be enacted into law.

Section-by-Section Analysis of Selected Provisions of H.R. 5090

Following the introduction of H.R. 5090 on July 26, 1988, the provisions of the bill dealing with matters within the jurisdiction of

the Committee on Agriculture were received by the Committee. The section-by-section analysis below describes those sections of the implementing legislation primarily within the jurisdiction of the Committee on Agriculture. Refer to the other parts of this report for section-by-section analyses of the remaining sections of H.R. 5090.

Sec. 101(a)—Approval of Agreement and Statement of Administrative Action

Section 101(a) provides that pursuant to sections 102 and 151 of the Trade Act of 1974, the Congress approves—

(1) the United States-Canada Free-Trade Agreement (hereinafter referred to as the "FTA") as submitted to the Congress on July 25, 1987;

(2) the letters exchanged between the Governments of the United States and Canada dated January 2, 1988, relating to negotiations regarding article 301 (Rules of Origin), article 401 (Tariff Elimination), and article 2008 (Plywood Standards) of the Agreement; and

(3) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on July 25, 1988.[1]

Sec. 301(c)—Import restrictions on Canadian articles

Section 301(c) will add an exception to the provisions of subsection (f) of section 22 of the Agricultural Adjustment Act of 1933, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937. Section 22 authorizes the President to impose import fees on, and limitations on the import of, articles if the import of such articles tend to render ineffective, or materially interfere with, the agricultural commodity programs. Subsection (f) of section 22 currently provides that no trade or other international agreement entered into by the United States can be applied in a manner inconsistent with the requirements of section 22.

Section 301(c) of H.R. 5090 will provide an exception to the general prohibition of subsection (f) of section 22, as follows: The President could, pursuant to articles 705.5 and 707 of the FTA, exempt products of Canada from import restrictions imposed under section 22.

Sec. 301(d)—Importation of animal vaccines

Section 301(d) of H.R. 5090 will revise the second sentence of the eighth paragraph of the Virus-Serum-Toxin Act, pursuant to the requirements of article 708.3 and schedule 4 of annex 708(1) of the FTA.

Currently, the second sentence of the eighth paragraph of the Virus-Serum-Toxin Act prohibits the importation into the United States, *without a permit from the Secretary of Agriculture,* of any

[1] The provisions of the Statement of Administrative Action applicable to Agriculture are laid out in Chapter 7 of the Statement, as reported in House Document 100-216, Communication from the President of the United States, the Final Legal Text, United States-Canada Free-Trade Agreement, at pages 191 through 207.

virus, serum, or toxin, or analogous product for use in the treatment of domestic animals.

The revision to be made by section 301(d) will add an alternative to importation under a permit, that is, importation with a certification by Canada, as the country of origin, as prescribed by the Secretary of Agriculture.

Sec. 301(e)—Importation of seeds

Section 301(e) of H.R. 5090 will amend subsection (e) of section 302 of the Federal Seed Act, pursuant to schedule 3 of annex 708(1) of the FTA. The amendment will add a new exemption to subsection (e) of section 302 of the Act, which currently exempts from the Act's staining requirement seeds imported for seed production (but not those imported for commercial sale). (NOTE: Section 305 of the Act generally requires *imported* seeds containing 10 percent or more of alfalfa or clover seeds to be stained.) The added exemption is as follows: The provisions of the Act requiring staining of seeds will not apply to alfalfa or clover seed originating in Canada.

Sec. 301(f)—Plant and animal health regulations

Paragraphs (1) and (2) of section 301(f) of H.R. 5090 will amend sections 103 and 104 of the Federal Plant Pest Act, respectively, pursuant to article 708.3 of the FTA.

Currently, section 103 (in subsection (a)) prohibits the importation or interstate movement of a plant pest, unless authorized *under a general or specific permit from the Secretary of Agriculture* and under regulations of the Secretary designated to prevent the dissemination of plant pests.

Paragraph (1) of section 301(f) will add a new subsection (c) to section 103, providing a special rule for plant pests from Canada, as follows: The movement of a plant pest from Canada would be prohibited except under regulations of the Secretary designed to prevent the dissemination of plant pests. In other words, with respect to Canada, the permit requirement would be eliminated.

Paragraph (2) of section 301(f) will make conforming amendments to section 104 of the Federal Plant Pest Act. Section 104, in subsection (a), currently prohibits the mailing of plant pests except when accompanied by a copy of a permit issued under the Act. Paragraph (2) of section 301(f) will add a new subsection (b) to section 104 (while redesignating current subsections (b) and (c) thereof as subsections (c) and (d)) stating that no plant pest can be mailed from Canada except in accordance with regulations as the Secretary may promulgate designed to prevent the dissemination of plant pests. Subparagraph (A) of section 301(f)(2) will make a cross-reference conforming change to subsection (a) of section 104 of the Federal Plant Pest Act.

Paragraph (3) of section 301(f) of H.R. 5090 will amend sections 1 and 2 of the Act of August 20, 1912 (the Plant Quarantine Act), pursuant to article 708.3 of the FTA.

Currently, section 1 of the 1912 Act prohibits the importation into the United States of nursery stock unless a permit therefor has been issued by the Secretary of Agriculture and the importing country certifies that the nursery stock has been inspected and certified free of disease and insect pests. Paragraph (3) of section 301(f)

of H.R. 5090 will add a proviso to section 1 of the 1912 Act to permit the Secretary to waive the permit requirement for nursery stock imported from Canada.

Currently, section 2 of the 1912 Act requires the Secretary of the Treasury to notify the Secretary of Agriculture of the importation of any nursery stock and the importer to notify the Secretary of Agriculture immediately upon entry as to the details of the shipment of the stock. It also prohibits the interstate shipment of imported nursery stock without notification to the Secretary of Agriculture or officials of the State to which the stock is destined (or both), at the time of shipment, of the details about the shipment, unless the stock has been inspected by a State agency. Paragraph (3) of section 301(f) will add a proviso at the end of section 2 of the 1912 Act, stating that section 2 will not apply to nursery stock imported from Canada.

Paragraph (4) of section 301(f) of H.R. 5090 will amend subsection (a) of section 4 of the Federal Noxious Weed Act of 1974, pursuant to article 708.3 of the FTA.

Currently, subsection (a) of section 4 of the Act prohibits the interstate movement of a noxious weed, except if *(1) authorized by the Secretary of Agriculture under a general permit* and (2) in accordance with the regulations as the Secretary may promulgate to prevent the dissemination of noxious weeds. Paragraph (4) of section 301(f) will revise subsection (a) of section 4 of the Act to except from the permit requirement noxious weeds from Canada. The prohibition of movement in violation of the safe movement regulations would still apply to Canada.

Paragraph 5 of section 301(f) of H.R. 5090 will revise subsection (a) of section 306 of the Tariff Act of 1930, pursuant to schedule 4 of annex 708(1) of the FTA.

Currently, subsection (a) of section 306 of the Tariff Act prohibits the importation of livestock or meat from countries in which the Secretary of Agriculture determines rinderpest or foot-and-mouth disease exists. Paragraph (5) of section 301(f) will allow the Secretary of Agriculture to permit, subject to terms and conditions as the Secretary deems appropriate, the importation of cattle, sheep, or other ruminants, or swine, or the fresh, chilled, or frozen meat of such animals from a region of Canada, notwithstanding the existence of rinderpest or foot-and-mouth disease in Canada if—

(1) the United States and Canada have entered into an agreement delineating the criteria for recognizing that a geographical region of either country is free from rinderpest or foot-and-mouth disease; and

(2) the appropriate official of the government of Canada certifies that the region of Canada from which the animal or meat originated is free from rinderpest and foot-and-mouth disease.

Section 501—Effective Dates

Section 501 of H.R. 5090 provides that sections 1 and 2, Title I, Section 304 (except subdivision (f)), section 309, section 501(b) and section 502 of the bill will take effect on its enactment. The remainder of the bill will take effect upon the entry into force of the United States-Canada Free-Trade Agreement on January 1, 1989.

The provisions of the bill will remain in effect only for so long as the Agreement remains in force.

Committee Consideration

TRADE AGREEMENTS AND "FAST-TRACK IMPLEMENTING" LEGISLATION

The Trade Act of 1974 enacted a number of specific provisions governing the congressional consideration and approval of trade agreements under that Act. Trade agreements submitted to the Congress for approval in accordance with the Act are not subject to amendment, although the implementing legislation is referred to the appropriate committees of jurisdiction for consideration. H.R. 5090 was referred to the Committee on Agriculture for review and consideration by the committee, in accord with the applicable provisions of the Trade Act of 1974.

The following summary describes the key provisions of the Trade Act of 1974 governing congressional consideration of such trade agreements.

Sec. 2—Statement of Purposes

Section 2 of the Trade Act of 1974 states that the purposes of the Act are to—

(1) foster U.S. economic growth and strengthen economic relations between the United States and foreign countries through open and nondiscriminatory world trade;

(2) harmonize, reduce, and eliminate trade barriers on a basis that ensures competitive opportunities for U.S. commerce;

(3) establish fairness and equity in international trading relations;

(4) provide procedures to safeguard the United States from unfair or injurious import competition, and assist domestic industries, workers, and communities to adjust to changes in international trade flows;

(5) open up markets in nonmarket economies; and

(6) provide access to the U.S. market for less developed countries,

through trade agreements affording mutual benefits.

CHAPTER 1 OF TITLE I—TRADE BARRIERS

Sec. 101—Basic authority for trade agreements

(This section authorized the President, for the five-year period beginning in 1975, to enter into trade agreements entailing a reduction or modification of U.S. customs duties in cases where domestic import restrictions or those of other countries are burdening U.S. foreign trade.)

Sec. 102—Barriers and other distortions of trade

Section 102 provides ground rules for the negotiation, and submission to Congress, of trade agreements that harmonize, reduce, or eliminate barriers to (and distortions of) international trade. (Note: Trade "barriers" are defined, in subsection (g), as duties or import restrictions, and trade "distortions" are defined as includ-

ing subsidies.) The President was authorized to enter into trade agreements under section 102 only for the 13-year period ending January 2, 1988.

Subsection (a) (findings and policy).—Contains findings of Congress that barriers to (and other distortions of) international trade are reducing the growth of foreign markets for the products of U.S. agriculture and other industries.

It also urges the President to—

(1) take all feasible actions to harmonize, reduce, or eliminate such barriers and distortions; and

(2) use the authority provided under subsection (b) to negotiate trade agreements, on a basis of mutuality, to harmonize, reduce, or eliminate such barriers.

Subsection (b) (President's authority).—Authorizes the President to enter into trade agreements (during the 13-year period beginning on January 3, 1975) providing for—

(1) the harmonization, reduction, or elimination of trade barriers or distortions; or

(2) the prohibition of, or limitations on, the imposition of such barriers or distortions.

Subsection (b) provides that a trade agreement that provides for the elimination or reduction of any U.S. duty can be entered into only if—

(1) the other country in the negotiation requests the negotiation of such an agreement; and

(2) the President (A) notifies the House Ways and Means Committee and the Senate Finance Committee of such negotiations at least 150 days before he enters into the agreements, and (B) consults with such committees on the agreements.

Subsection (c) (consultation).—Requires the President to consult with Congress prior to entering a trade agreement to harmonize, reduce, or eliminate barriers to, or distortions of, trade. He must consult with—

(1) the House Ways and Means Committee and Senate Finance Committee; and

(2) each House and Senate committee having jurisdiction over legislation involving subject matter that would be affected by the agreement.

Subsection (d) (submission of agreement).—Requires the President, once he enters into such an agreement, to submit to Congress (1) the agreement, (2) a draft implementing bill (described in section 151), and (3) a statement of any administrative action proposed to implement the agreement. The agreement will enter into force with respect to the United States only if—

(i) subsection (e) (prior notification of Congress) is complied with; and

(ii) the implementing bill is enacted into law.

Subsection (e) (prior notification of Congress).—Provides that no trade agreement submitted to Congress will enter into force with respect to the United States unless the President—

(1) notifies Congress at least 90 days prior to the day he enters into the agreement; and

(2) transmits to Congress the final legal text of the agreement, the implementing legislation, and statement of adminis-

trative action, together with a statement of his reasons as to how the agreement serves the interest of U.S. commerce and why the implementing legislation and proposed administrative action are required or appropriate to carry out the agreement.

Sec. 103—Overall negotiating objective

Section 103 provides that the overall negotiating objective under section 102 is to obtain more open and equitable market access and the harmonization, reduction, or elimination of devices that distort trade or commerce. To the maximum extent practicable, harmonization, reduction, or elimination of *agricultural* trade barriers and distortion must be undertaken in conjunction with harmonization, reduction, or elimination of industrial trade barriers and distortions.

Sec. 104—Sector negotiating objective

Section 104 states that a principal U.S. negotiating objective under section 102 is to obtain, to the maximum extent feasible, competitive opportunities *on a sectoral basis* for U.S. exports to developed countries equivalent to the opportunities afforded to other countries in U.S. import markets. Such economic sectors include appropriate product sectors of manufacturing *and the agricultural sector.* Thus, negotiations, to the extent feasible, are to be conducted on the basis of appropriate product sectors of manufacturing. If the President determines that competitive opportunities in one or more product sectors will be significantly affected by a trade agreement concluded under section 102, he must submit to Congress, with the agreement, an analysis of the extent to which the sectoral negotiating objective is achieved by the agreement in each sector.

Sec. 105—Bilateral trade agreements

Section 105 provides that, if the President determines that bilateral trade agreements will more effectively promote the U.S. economy, then a negotiating objective under section 102 will be to enter into bilateral trade agreements. Each such bilateral agreement must provide for mutually advantageous economic benefits.

Sec. 125—Termination and withdrawal authority

(This section provides procedures for terminating trade agreements and withdrawal of benefits under agreements.)

CHAPTER 3 OF TITLE I—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

(This chapter contains provisions to ensure the receipt by the President, before entering into a trade agreement under section 102, of information and advice from—

(1) the International Trade Commission;

(2) the Department of Agriculture and other Federal agencies; and

(3) the private sector and non-Federal public sector.

Also, the President must seek advice from the public sector before modifying any duty, as provided for under the agreement.)

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CHAPTER 5 OF TITLE I—CONGRESSIONAL PROCEDURES

Sec. 151—Bills implementing trade agreements on nontariff barriers

Subsection (a) (House and Senate rules).—States that section 151 is enacted as an exercise in the rulemaking power of the House and Senate, respectively, and as such is deemed a part of the rules of the body.

Subsection (b) (definition of "implementing bill").—Defines the term "implementing bill" to mean a bill introduced with respect to a trade agreement submitted to Congress under section 102 that contains—

(1) a provision approving the agreement;

(2) a provision approving the statement of administrative action (if any) proposed to implement the agreement; and

(3) if changes in existing law or new statutory authorities are required to implement the agreement, provisions making such changes or providing such new authority.

Subsection (c) (introduction and referral).—Provides that, on the day a trade agreement is submitted to Congress, the Majority Leader of the House (for himself and the Minority Leader) must introduce the implementing bill. The bill will then be referred to the appropriate committees for consideration of the provisions within their respective jurisdictions.

Subsection (d) (amendments prohibited).—Provides that no amendment to an implementing bill will be in order in either body, nor will a motion to suspend the application of this subsection.

Subsection (e) (time schedules).—Provides that committees must report the implementing bill (or be automatically discharged) within 45 days of session after the bill's introduction. It also provides that a vote by the House on final passage of the bill must take place within 15 days of session after the bill is reported from committees.

Subsection (f) (consideration in the House).—Provides that the motion, in the House, to proceed to consideration of an implementing bill will be highly privileged and not debatable. No amendment to, or motion to reconsider the vote on, the motion will be in order. Subsection (f) also provides for a maximum of 20 hours of floor debate, equally divided. No motion to recommit the implementing bill, or reconsider the vote on final passage, will be in order.

Committee Hearings

On January 2, 1988 the President of the United States and the Prime Minister of Canada signed the United States-Canada Free-Trade Agreement. The Committee on Agriculture held a public hearing on February 25, 1988 to review the Agreement and to receive testimony from the Administration and other interested parties regarding the Agreement's provisions affecting U.S. agriculture.

The Honorable Richard E. Lyng, Secretary of Agriculture, and the Honorable Clayton Yeutter, U.S. Trade Representative, testified in support of the Agreement on behalf of the Administration. Secretary Lyng expressed his opinion that the removal of tariff barriers and the reduction of non-tariff barriers pursuant to the

Agreement would increase trade opportunities for agricultural producers in the United States and Canada. Secretary Lyng explained that, under the Agreement, all tariffs between the two countries would be eliminated within ten years, although for twenty years tariffs may be reimposed on certain horticultural products under special circumstances.

Secretary Lyng also stressed that both the United States and Canada would retain all of their rights and obligations under the General Agreement on Tariffs and Trade, and that semiannual consultations between the United States and Canada to discuss agricultural issues are required by the Agreement.

Ambassador Yeutter noted that agriculture is not one of the major components of the Agreement, in light of the fact that many of agriculture's trade problems are global in nature. Ambassador Yeutter expressed the Administration's belief that the global nature of agricultural trade problems leads to the conclusion that these issues are best addressed in multilateral, rather than bilateral, trade negotiations and agreements.

Ambassador Yeutter stressed that the phaseout of tariffs provided for in the FTA would provide U.S. agricultural producers with an advantage over their Canadian counterparts because Canadian agricultural tariffs are currently much higher than U.S. tariffs on similar products. Ambassador Yeutter also addressed the concerns that had been expressed by some Members of Congress and others regarding the Agreement's provisions regulating the trade of wheat and other grains, eggs and poultry, wines, spirits, sugar, textiles, timber and plywood, and other products.

Mr. Tom Cook, representing the National Cattlemen's Association, expressed that organization's support for the Agreement. Mr. Cook indicated that his organization's support was contingent upon the inclusion of provisions to amend the Meat Import Act in legislation to implement the FTA. Specifically, Mr. Cook endorsed amendments to the Meat Import Act to exclude Canada from the calculation of the quantity of meat articles that may be imported without triggering an import quota under the Meat Import Act.

Mr. Julian Heron, a member of the Agriculture Policy Advisory Committee for Trade Negotiations, testified in support of the FTA and expressed his opinion that the Agreement was most significant because it would advance the efforts of the United States toward multilateral reform of the world market for trading in agricultural goods.

Mr. Carl F. Schwensen, representing the National Association of Wheat Growers, testified that his organization was concerned with whether the Agreement would lead to a surge of exports of Canadian wheat to the United States. Mr. Schwensen also expressed his concern as to whether or not new conditions imposed on the use of section 22 authorities by the United States against Canadian wheat imports would hinder U.S. efforts to invoke the protections afforded by section 22.

Mr. Tom Miller, President of the National Pork Producers Council expressed his organization's disappointment with the Agreement's failure to end certain Canadian restrictions on shipments of U.S. swine to Canada. Mr. Miller also indicated his opposition to

Canadian subsidies to swine producers that will be allowed to continue under the Agreement.

Full Committee Consideration

The Committee on Agriculture met in executive session on May 18, 1988, to discuss the Free-Trade Agreement and to review proposed legislation to implement the Agreement. Representatives of the Department of Agriculture met with the Committee to address Members' questions and concerns regarding the Agreement itself and the working draft of legislation to implement the Agreement.

Chairman de la Garza offered for the Committee's consideration three technical amendments to the draft implementing legislation and recommended, without objection, that the Administration consider these amendments while drafting the final legal text of legislation to implement the Agreement.

The Committee met again on August 3, 1988 to consider H.R. 5090, the United States-Canada Free-Trade Implementation Act of 1988. Chairman de la Garza explained to the Committee at its meeting of May 18, 1988 had been incorporated into H.R. 5090. The Chairman also reminded the Committee that under the "fast-track" procedure for the consideration of trade agreements, the Committee would have no opportunity to amend the legislation, but would be afforded only a single yes or no vote on the implementing legislation.

Representatives of the Department of Agriculture addressed a number of questions from Members regarding wheat, meat, ethanol and ethanol feedstocks, and other goods under the Agreement and the implementing legislation.

Mr. Stenholm offered report language expressing the Committee's intent that Canadian egg processors should not be permitted to sell egg products of foreign origin in the United States that they would be unable to sell in Canada. The report language also made clear that the Department of Agriculture should monitor certain sales of Canadian eggs and egg products in the United States. The report language was approved by unanimous consent.

Mr. Lancaster offered for consideration report language that would urge the U.S. Trade Representative, and other U.S. Government officials with trade-related responsibilities, to take steps to ensure that the provisions of the Agreement that would deny the benefits of the Agreement from applying to the transshipment of tobacco through Canada into the United States are strictly enforced. The report language was approved by unanimous consent.

Mr. English stated that it would be helpful if the report to accompany the bill made clear that the Committee on Agriculture, by approving the Agreement, was not endorsing the Administration's proposals at the Uruguay Round to eliminate all agricultural subsidies. Mr. Glickman concurred with Mr. English's statement in this regard.

The Committee then approved H.R. 5090 by a voice vote.

Committee Position on Certain Issues

SALE OF CANADIAN EGGS AND EGG PRODUCTS

Article 401:2(c) of the Agreement eliminates tariffs from both the United States and Canada in ten equal annual stages over the next 10 years. However, Article 706 allows Canada to maintain quantitative import restrictions on shell eggs. While the overall Canadian import quota is increased to 1.657 percent of the previous year's domestic shell egg production, this increase reflects the annual average level of actual shipments over the past 5 years, including supplemental quotas. Access to the Canadian egg market will remain restricted while the U.S. market is completely open to Canadian egg producers.

Canada operates a supply management program for domestic producers of eggs. Domestic production is controlled by a quota system and producers are guaranteed a price based upon a cost of production formula. All eggs are purchased by the Canadian Egg Marketing Agency [CEMA]. All eggs not needed to satisfy domestic demand are sold at discount to processors. Exports of these egg products can depress the prices received for domestic eggs.

Article 701:3 prohibit either party from selling agricultural goods for export to the territory of the other party at a price below the acquisition price of the goods plus any storage, handling or other costs incurred.

The Committee believes that in carrying out Section 701:3 as expressed in the Statement of Administrative Actions, the export of eggs at a price below the acquisition cost is prohibited and practices such as (1) "dual pricing" whereby CEMA would pay one price for domestic eggs and a minimum or token price for export eggs; or (2) "blended pricing" where the same two-tier price structure is employed but an average price is published, would contravene the meaning of Article 701:3 and circumvent the spirit and intent of the Agreement.

The Committee also believes that it is important that the free access of Canadian product to the United States not be abused by allowing Canadian processors to buy foreign surplus eggs, process and sell them at reduced prices into the U.S. market as prohibited by Article 302. Canadian processors should not be permitted to sell foreign product in the U.S. market that would not be permitted into their own market.

In view of this situation, it is the understanding of the Committee that the U.S. Department of Agriculture will monitor the sale of eggs and egg products sold by the Canadian government or any public entity which it has established or maintains, or sold by or through a private entity to insure that the price is not below the acquisition price of the goods plus any storage, handling or other costs.

TRANSSHIPMENT OF TOBACCO

The Committee is aware of the concern that the transshipment of foreign-grown tobacco through Canada and into the United States may be encouraged once the Free-Trade Agreement becomes operative. Such transshipment would violate the country of origin

requirements of the Agreement, and would be highly disruptive to the operations of the domestic tobacco price support program. The Committee urges the Trade Representative, and other Government officials that have trade related responsibilities, to take steps to ensure that the provisions of the Agreement that would deny the benefits of the Agreement from applying to the transshipment of tobacco through Canada and into the United States are strictly enforced.

Administration Position

At the time of the filing of this report, the Committee on Agriculture had not received a report from the U.S. Department of Agriculture concerning H.R. 5090, to implement the United States-Canada Free-Trade Agreement. However, the views of the administration are set forth in the following letter from the President of the United States to the Honorable Jim Wright, Speaker of the House of Representatives, on the occasion of the transmittal to the Congress of the United States-Canada Free-Trade Agreement Implementation Act of 1988.

LETTER OF TRANSMITTAL

The White House,
Washington, July 25, 1988.

Hon. Jim Wright,
Speaker of the House of Representatives,
Washington, DC.

Dear Mr. Speaker: Pursuant to section 102 of the Trade Act of 1974, I herewith transmit the final legal text of the United States-Canada Free-Trade Agreement, which Prime Minister Brian Mulroney and I entered into on behalf of our Governments on January 2, 1988.

With this truly historic agreement, I am submitting the proposed United States-Canada Free-Trade Agreement Implementation Act of 1988, which will revise domestic law as required or appropriate to implement this Agreement and fulfill our international obligations. Further, in accordance with section 102 of the Trade Act of 1974, I am submitting a Statement of Administrative Action that:

Outlines proposed administrative actions to implement the Agreement;

Explains how the implementing bill and proposed administrative actions change or affect existing law; and

Provides reasons as to why the implementing bill and proposed administrative actions are required or appropriate to carry out the Agreement.

Finally, I am submitting a statement of reasons as to how the Agreement serves the interests of U.S. commerce.

With this Agreement and its implementing bill, we set a new standard for exemplary teamwork between the Congress and the Executive branch. The Administration and many congressional committees have cooperated closely in drafting the bill I am sub-

mitting today. No one branch of our government has dictated the terms of this bill; rather, we have all cooperated for the greater good of the Agreement, which so manifestly serves our national economic interests. I compliment and thank the Congress for its substantial contributions to this process, and particularly for the timeliness of its efforts in this regard. I believe this cooperation fully reflects the responsible way in which "fast track" legislative procedures for trade agreements were intended to be used.

The United States-Canada Free-Trade Agreement is one of the most comprehensive agreements on trade ever negotiated between two nations. It provides for the elimination of all tariffs, reduces many non-tariff barriers, liberalizes investment practices, and covers trade in services. For example, the Agreement:

Significantly liberalizes Canada's foreign investment regime;

Provides secure, nondiscriminatory access to Canadian energy supplies, even in times of shortages;

Establishes the critical principle of national treatment with respect to trade in over 150 services, which will ensure nondiscriminatory treatment of U.S. services providers under future Canadian laws and regulations;

Removes essentially all existing Canadian discrimination faced by U.S. financial institutions operating in Canada;

Facilitates the temporary entry of U.S. business persons and professionals into Canada;

Freezes coverage of the United States-Canada "Auto Pact" and limits future Pact-like provisions;

Eliminates Canadian duty remission programs linked to performance requirements;

Removes the current Canadian embargo on imports of used motor vehicles and aircraft;

Expands opportunities to sell U.S. goods to the Canadian Government by extending the coverage of the GATT Government Procurement Code bilaterally to purchases between $25,000 and the Code threshold (currently about $156,000);

Provides that owners of U.S. television programs should be compensated for the retransmission of their programs in Canada;

Eliminates Canadian export subsidies on agricultural trade to the United States;

Prohibits Canadian Government and public entity sales for export to the United States of agricultural goods at prices below cost;

Generally exempts meat products of one country from the other country's meat import quota laws;

Increases Canadian poultry and egg minimum import quotas;

Sets conditions for the removal of Canadian import licensing of wheat, barley, and oats;

Establishes a forum for discussing the possible harmonization of technical regulations on agricultural trade;

Facilitates the recognition by one part of the other's testing facilities and certification bodies in the area of technical standards; and

Removes barriers to the sale U.S.-produced wine and distilled spirits in Canada.

While I have highlighted here major benefits for the United States, the Agreement of course provides reciprocal benefits for Canada. Thus, the Agreement is a win-win situation for both countries. It will create more jobs and lower prices for consumers on both sides of the border. The overall result will be increased competitiveness and a higher standard of living in both countries.

Moreover, the Agreement looks to the future by providing a concrete example of the kind of market-opening steps the entire world should be pursuing. It thus supports U.S. efforts at trade liberalization in the Uruguay Round of multilateral trade negotiations.

With this Agreement and the free-trade area it establishes, we are poised to make a great leap of progress. Already Canada and the United States generate the world's largest volume of trade. Canada is by far our largest trade partner. The United States exports more to the Province of Ontario alone than to the entire country of Japan. United States citizens are by far the principal foreign investors in Canada, and Canadians, on a per capita basis, are even greater investors in this country. This two-way traffic in trade and investment has helped to create more than a million jobs, expand opportunity for both our peoples, and augment the prosperity of both nations.

With this Agreement, we are tearing down the tariff walls that block the flow of trade and generally eliminating the tangle of restrictions and regulations that inhibit our commerce and economic cooperation. As this Agreement takes effect, Americans and Canadians will be more able to conduct business, invest, and trade where they like. Two proud, independent, and sovereign nations—Canada and the United States—will pull together, as partners, toward a future of economic growth and prosperity.

With this Agreement, we reject "beggar-thy-neighbor" policies in order to build with our neighbors; we put aside special interests in favor of the common interest; we break free from limitations of the past not only to enhance our prosperity today, but also to build a better tomorrow for the generations to come in the 21st century.

With this Agreement, both the United States and Canada will be better prepared to compete in the global marketplace of the 21st century. Therefore, in the interest of strengthening our economy, creating jobs, reducing consumer burdens, and advancing U.S. efforts in multilateral trade negotiations, I urge prompt approval and implementation of the United States-Canadian Free-Trade Agreement by the Congress.

Sincerely,

RONALD REAGAN.

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, or new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the

Director of the Congressional Budget Office under clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 3, 1988.

Hon. E de la Garza,
Chairman, Committee on Agriculture, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 5090, the United States-Canada Free-Trade Agreement Implementation Act of 1988. The attached table represents the estimated budget impact of the bill, as ordered reported by the House Committee on Agriculture, August 3, 1988.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Douglas Criscitello, who can be reached at 226-2850.

Sincerely,

James L. Blum,
Acting Director.

ESTIMATED COSTS TO THE FEDERAL GOVERNMENT TO IMPLEMENT THE UNITED STATES-CANADA FREE-TRADE AGREEMENT (H.R. 5090 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON AGRICULTURE, AUGUST 3, 1988)

[By fiscal year, in millions of dollars]

	1989	1990	1991	1992	1993
NET REVENUE EFFECTS					
Estimated revenues	−97	−198	−303	−421	−546
DIRECT SPENDING					
Commodity Credit Corporation:					
Estimated budget authority [1]	2	2	3	4	4
Estimated outlays	2	2	3	4	4
Customs User Fees:					
Estimated budget authority		22	1		
Estimated outlays		22	1		
Total Direct Spending:					
Estimated budget authority	2	24	4	4	4
Estimated outlays	2	24	4	4	4
AUTHORIZATIONS					
U.S. Secretariat:					
Estimated authorization level	1	1	1	1	1
Estimated outlays	1	1	1	1	1
Binational panels and committees:					
Estimated authorization level [2]	2				
Estimated outlays	2				

ESTIMATED COSTS TO THE FEDERAL GOVERNMENT TO IMPLEMENT THE UNITED STATES-CANADA FREE-TRADE AGREEMENT (H.R. 5090 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON AGRICULTURE, AUGUST 3, 1988)—Continued

[By fiscal year, in millions of dollars]

	1989	1990	1991	1992	1993
AUTHORIZATIONS					
Other costs:					
Estimated authorization level	1	1	1	1	1
Estimated outlays	1	1	1	1	1
Total authorizations:					
Estimated authorization level	4	2	2	2	2
Estimated outlays	4	2	2	2	2
Net increase in the deficit	103	224	309	427	552

[1] Only those provisions of H.R. 5090 affecting the spending of the Commodity Credit Corporation fall within the budget allocation of the Committee on Agriculture.

[2] Costs of about $2 million a year for binational panels and committees would be expected to continue in years after 1989, but the bill only authorizes appropriations for fiscal year 1989.

Only those provisions of H.R. 5090 affecting the spending of the Commodity Credit Corporation fall within the budget allocation of the Committee on Agriculture. All other spending cited in the cost estimate is the result of the implementation of the Free Trade Agreement as a whole, pursuant to the provisions of H.R. 5090. Accordingly, the spending attributable to the Committee on Agriculture is $2 million in fiscal year 1989, and a total of $15 million over the five fiscal years 1989 through 1993.

Inflationary Impact Statement

Pursuant to clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 5090, will have no inflationary impact on the national economy.

Oversight Statement

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 5090.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of Rule X of the Rules of the House of Representatives.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown in part 1 of the report, filed by the Committee on Ways and Means.

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